

Joint Memo Filed by Both the Parties

We herewith file this memo, having agreed to the following:—

II Party is to pay Rs. 1,000/- to the I party and has agreed to accept the same.

I Party has agreed to withdraw his claim under Reference No. 118 of 1978 and has no claim whatsoever hereafter against the II party.

Award may be passed in terms as stated above.

Sd/-

I. R. Ashrana
for I party

Sd/-

Director,
A.S.C.B.S. Ltd.,
for II party

Received Rs. 1,000/- by cheque from II party this day 3rd 4-1979
Filed in court

Sd/- I.R. Ashrana,

Sd/- Presiding Officer,
Labour Court, Mysore

I Party

Order No. SWL 122 LLA 79.

Bangalore, dated the 21st April 1979.

Whereas by State Government Order No. SWL 78 LLD 72, dated 1st August 75, the Industrial dispute between the workmen and the management of the Adi Sri Cauvery Bus Service Ltd., Malikeri was referred to the Labour Court, Mysore for adjudication;

And Whereas the Presiding Officer, Labour Court, Mysore, has submitted to the State Government its award in respect of the said Industrial Dispute.

Now, therefore, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947), the Government of Karnataka are pleased to direct the publication of the said award as above in the *Karnataka Gazette*.

By Order and in the name of the Governor of Karnataka,

H. V. SOMASHEKHARAIAH,

Under Secretary to Government,

Social Welfare and Labour Department.

395—S.O. 1432

GOVERNMENT OF KARNATAKA

SOCIAL WELFARE AND LABOUR SECRETARIAT

Labour Dispute Industrial dispute between the Workmen and the Management of the Hindustan Aeronautics Limited, Bangalore

Award of the Presiding Officer, Labour Court, Bangalore Published.
Read the following papers:

1. Letter No. 2/47/78-79 dated 21st March 1979 from Sri M. R. Mujumdar, Presiding Officer, Labour Court, Bangalore.

BEFORE THE PRESIDING OFFICER, LABOUR COURT,
BANGALORE.

Dated this 21st day of March 1979.

PRESENT

Shri M. R. Mujumdar, B.A. (Hons.) LL.B.,
Presiding Officer,

Reference No. 80 of 1978

First Party :—

• H. S. Raghanna Naik, C/o the President, Bangalore District Engineering Workers Union, 70, Arcot Srinivasachar Street, Bangalore.

Vs.

Second Party :—

The Management of Hindustan Aeronautics Limited,
Bangalore-560017.

Reference :—

Government Order No. SWL 118 LLD 74 dated 27th April 1974

Award

1. The points referred for adjudication under Section 10(1) (e) of the Industrial Disputes Act, 1947 by the Government of Karnataka as per their Order No. SWL 118 LLD 74 dated 27th April 1974, are as under :—

“Are the Management of Hindustan Aeronautics Ltd., Bangalore justified in terminating the services of Sri Raghanna Naik, with effect from 16th May 1972 ?

If not, to what reliefs the workman is entitled ?”

2. The Reference was registered as reference No. 77 of 1974 and notices were issued to the parties. Thereupon both parties have appeared and filed their statements.

3. In the claim statement filed on 10th February 1974, I Party, H. S. Raghanna Naik contended that he was working as a mechanic in the II Party factory from 15th January 1965 till 6th May 1972 (it is wrongly written as 6th May 1974 in the claim statement), when he fell ill. He sent leave letter with medical certificate on 11th May 1972 covering the period from 4th May 1974 to 17th May 1974 and then again sent another letter requesting leave from 18th May 1972 to 21st May 1972. Yet he received a notice dated 18th May 1972 alleging that he was absent from 6th May 1972 and had therefore,

lost his lien on his appointment under Standing Order 18(ii) and so called upon to return to duty within 10 days and explain his unauthorised absence. He reported for duty on 22nd May 1972 but the management refused to admit him to work and the Assistant Personnel Officer gave a notice dated 6th July 1972 stating that his services were terminated from 16th May 1972. His appeal to the Managing Director was rejected. Conciliation proceedings were failed and then followed this reference. There was no intention on his part to abandon the service and in fact he reported for work and gave explanation on 22nd May 1972. The action of the management is misconceived and illegal. The Assistant Personnel Manager was not competent to pass the order of termination. On these grounds reinstatement with full back wages and other benefits is claimed.

4. The II Party filed counter statement on 26th May 1975 contending that the I party workman absented from duty without leave or permission from 6th May 1972 to 18th May 1972 and therefore, a notice was issued to him on 19th May 1972 under Standing Order 18(ii) to explain why loss of lien on his appointment should not be recorded. His explanation dated 23rd May 1972, i. e., after, 10 days, was not found to be satisfactory. No. leave letters or medical certificates allegedly sent by the I Party were received by the II Party. The I party did not report for Work within 10 days as required in the notice dated 19th May 1972. Therefore, his lien on the employment was rightly treated as lost as per the standing Orders. The approbation claimed by him of unblemished record of service is unmerited. He was absent from duty on many days in the past also. His termination was not for misconduct and therefore, there was no need to hold any enquiry. By time he reported for duty his loss of lien on the appointment had been confirmed. The action of the management was proper and in good faith.

5. On 11th April 1975 it was ordered Issues were framed as per the points of dispute and the matter was posted for documents and evidence.

6. Later the case was transferred to the Labour Court, Hubli as per Government Order No. SWL 322 LIE 76 dated 27th January 1977. Again the case was retransferred to this Court vide Government Order No. SWL 314 (v) LIE 77 dated 13rd January 78. After it was received back, the case was registered as Reference No. 80 of 1978, notices were sent to the parties. The I party remained absent throughout. His advocate, Sri A.V. Srinivas reported on 8th November 1978 that he had no instructions from I party. Therefore fresh notice was ordered to the I Party. That notice was returned unserved with an endorsement as 'party left' not known. The case was before proceeded as per Rule 23 of the Industrial Disputes (Karnataka) Rules, 1947, as if the I party was present and had been duly represented.

7. On behalf of the II party, Sri H. N. Narsimhaiah, Assistant Administrative Manager, is examined as M. W. 1. He stated on oath that he was working as Personnel Officer till 1972 and had dealt with the papers of I Party workman. Loss of lien notice was sent to I party as per Ex. M. 1 and the I party sent his explanation as per Ex. M. 2. The Management has not received any leave letters dated 11th May 1972 or 20th February 1972 with medical certificates. But they received medical certificates with a letter dated 18th May 1972 on 23rd May 1972 in the company, and another letter of the same date 18th May 1972 on 22nd May 1972. Then the management decided to confirm the loss of line of the I Party and intimated the same to him vide letter dated 7th June 1972. He further stated the explanation of the I Party Ex. M-2 was considered and a reply as per Ex M-3 was sent to him. The appeal filed by him thereafter was considered by the Managing Director as per Ex. M-4 and the application was dismissed and the I Party was informed by letter 28th December 1972, a copy of which was at Ex. M-5. M. W-1 further stated that the previous service records of the workmen were not satisfactory and the deficiency noticed were pointed out to him and he was warned. The service records in this behalf are at Ex. M-6 to M-16. This witness was not cross-examined as the I Party was not at all present.

8. The sworn statement of M. W. 1 has remained unchallenged. The I Party workman had not at all cared to either cross-examine M. W. 1 or to lead evidence himself. He did not even instruct his Advocate who had therefore, to retire from the case. All these show that the I Party workman is not interested in prosecuting his claim in this case. In view of the sworn statement of M. W. 1 and the records Ex. M. 1 to M. 16, it is clear that the I Party workman remained absent without leave or permission for more than 10 days from 6th May 1972 onwards and therefore, as per the Standing Order 18(ii) which are binding on the I Party, his loss of lien was ordered and later confirmed as he did not report for duty within 10 days and properly explain his absence. It has to be held in view of the above facts and circumstances of the case, that the II Party-Management rightly confirmed the loss of lien and removed the name of the I Party workman from the Muster Roll. The action of the management cannot, therefore, be said to be unjustified. In this view of the matter, the Reference is answered against the I Party workman and it is held that he is not entitled to any relief. Hence the following.

A W A R D.

9. The Management of Hindustan Aeronautics Ltd., Bangalore, were justified in terminating the services of Sri Raghanna Naik, with effect from 16th May 1972. The I Party, Sri Raghanna Naik, is not entitled to any relief. No order as to costs.

M. R. MUJUMDAR,
Presiding Officer,
Labour Court, Bangalore.